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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/622,876
Filing Date: July 18, 2003
Appellant(s): SHINTANI ET AL.

Thomas F. Lebens
Reg. No. 38,221
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 9, 2009 appealing from the Office action mailed March 6, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,585,866	MILLER ET AL.	12-1996
US 5,659,366	KERMAN	08-1997
US 7,032,236	OZKAN et al.	04-2006
US 2003/0149988 A1	ELLIS et al.	08-2003
US 2005/0204388 A1	Knudson et al.	09-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (US 5,585,866) in view of Kerman (US 5,659,366).

Regarding claim 1, Miller discloses an electronic program guide circuit (EPG) – interpreted as microcontroller, data processor, ROM, DRAM, EEPROM, etc. (figure 1) comprising:

an EPG processor circuit, including a central processing unit (CPU) –interpreted microcontroller or processor (see include, but are not limited to, figure 1, col. 8, lines 20-61, col.34, line 45-col. 9, line 16), supplied with a video signal (video input received from signal input 11 – figure 1, col. 7, line 57-col. 8, line 13), wherein the video signal input include EPG program information in electronic from describing viewable program which is extracted from the video signal by the EPG processor (the video input includes program schedule information for all television program such as program title, channel, etc. which is extracted from the video signal by microcontroller or processor – see include, but are not limited to, figures 1, 18, col. 9, lines 15-44), the “EPG processor circuit outputs an on screen display (OSD) signal for displaying the history information about a selected episode of a program” is interpreted as the microcontroller and VDG outputs an on screen display signal including REMINDER(s) for displaying the reminder information about a selected program/episode previously set by the user - see col. 14, line 41-col. 15, line 13 and discussed in the "Response to Arguments" above);

a read only memory (ROM) connected to the EPG processor circuit for storing a program used by the EPG's CPU (e.g., ROM for storing software program and other information used by the microcontroller, or processor -see include, but are not limited to, figure 1, col. 8, line 20-col. 9, line 8, col. 34, lines 45-67);

a random access memory (e.g., DRAM) supplied with the EPG program information (program schedule information) by the EPG processor circuit, for storing EPG program information for a plurality of episodes of a given program (e.g., program title, time, etc. see include, but are not limited to, figures 1, 18-20, 38B, col. 8, line 20-col. 9, line 8, col. 34, lines 45-67).

Miller also discloses converting digital program schedule information to an RGB format in accordance with the bit map for the particular screen display then being presented to the user on the television receiver 27 – see include, but are not limited to, figure 1, col. 9, lines 30-61). However, Miller does not explicitly disclose a horizontal sync input, and a vertical sync input.

Kerman discloses circuit for accessing IPG data. The circuit comprises horizontal sync input and vertical sync input (see include, but are no limited to, figures 1-2, col. 2, lines 32-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miller with the teaching as taught by Kerman in order to maintain synchronism of the output signals so as to provide a proper image.

Regarding claim 3, Miller in view of Kerman discloses the EPG circuit as discussed in the rejection of claim 1. Miller further discloses storing user specific information such as reminder, parental control setting, or account information, etc. in the memory (see include, but are not limited to, col. 14, lines 50-67, col. 18, lines 49-60, col. 22, lines 50-52, col. 23, lines 30-47). Miller also discloses the circuit comprises Non-volatile memory EEPROM 20 for storing information – figure 1, col. 8, lines 32-67). It would have been

obvious to one of ordinary skill in the art to store the user specific information such as setting information, parental control information, account information, etc. in the Non-volatile memory EEPROM 20 in order to prevent the lost of information when the power is off.

Regarding claim 4, Miller in view of Kerman discloses the EPG circuit as discussed in the rejection of claim 1. The additional limitation "the EPG program information is extended data service data contained in the vertical blanking interval is taught by on either Miller or Kerman (see include, but are not limited to, Miller: col. 7, line 65-col. 8, line 13; Kerman: col. 6, lines 5-13).

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (US 5,585,866) in view of Kerman (US 5,659,366) as applied to claim 1, and further in view of Ozkan et al. (US 7,032,236).

Regarding claim 5, Miller in view of Kerman discloses the EPG circuit as discussed in the rejection of claim 1. Miller further discloses numerous transmission schemes can be used to transmit the data stream including program schedule information (col. 8, lines 3-14). However, Miller in view of Kerman does not explicitly disclose the EPG program information is in the digital signal's PSIP.

Ozkan discloses EPG program information is in the digital signal's PSIP (see include, but is not limited to, col. 3, lines 23-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miller in view of Kerman with the teaching as taught by Ozkan in order at least to provide text description of the events themselves thereby enhancing generation of EPG.

4. Claims 2, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (US 5,585,866) in view of Kerman (US 5,659,366) as applied to claim 1, and further in view of Ellis (US 20030149988).

Note: Application No. 09/330,792, filed on Jun. 11, 1999, which is hereby incorporated by reference in its entirety in US 2003/0149988 – see paragraph 0133.

Regarding claim 2, Miller in view of Kerman discloses the EPG circuit as discussed in the rejection of claim 1. Miller further discloses the EPG processor circuit outputs the on screen display (OSD) signal for displaying the history information about the selected episode of a program (see col. 14, line 41-col. 15, line 13 and discussed in the rejection of claim 1). Miller also discloses the reminder message could also be adapted to allow the user to display or modify a list of all reminders previously set by the user and the reminder overlay another program (see include, but are not limited to, col. 14, line 41-col. 15, line 13, figures 13-14). However, Miller in view of Kerman does not explicitly disclose displaying the history information (e.g., information of reminders) about the selected episode of the program simultaneously with another episode of the program,

wherein the selected episode of the program occurs previously to the another episode of the program.

Ellis discloses displaying the history information about the selected episode of the program simultaneously with another episode of the program, wherein the selected episode of the program occurs previously to another episode of the program (e.g., displaying information of reminders or selected episodes for all episodes in the entire series....wherein the selected episode (for example, episode broadcast on May 3) of the series occurs previously to next episode (for example, episode on May 10, then May 17) – see include, but are not limited to, US 2005/0204388: paragraphs 0015-0017, 0020, 0041, 0046, 0058). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miller in view of Kerman with the teaching as taught by Ellis in order yield predictable results such as to improve convenience for user to follow a series with episodes.

Regarding claims 6-8, Miller in view of Kerman discloses the EPG circuit as discussed in the rejection of claim 1. Miller further discloses numerous transmission schemes can be used to transmit the data stream including program schedule information (col. 8, lines 3-14). However, Miller in view of Kerman does not explicitly disclose the EPG program information is received via the Internet, via a public switched telephone network, via a cable system's out of band (OOB) data stream.

Ellis discloses EPG program information is received via the Internet (e.g., communication path is Internet link), via a public switched telephone network (e.g., communication path is telephone link), via a cable system's out of band (OOB) data stream (e.g., communication path is OOB or DOCSIS link) – see include, but are not limited to, paragraph 0064-0065. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miller in view of Kerman with the teachings as taught by Ellis in order to yield a predictable results (for example, to expand capabilities of the circuit).

(10) Response to Argument

A. Whether Claims 1, 3, and 4 are unpatentable, under 35 U.S.C § 103 (a), over Miller et al. (U.S Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5, 659,366).

Appellant argues both the Miller et al. and Kerman patents fail to teach, suggest, motivate, or otherwise obviate the claimed limitation "the EPG processor circuit output an on screen display (OSD) signal for display the history information about a selected episode of a program" as recited in independent claim 1. In contrast to the cited art, the EPG of the present application display "history information for the episodes of the program that were previously broadcast," the history information includes "for example, a brief description of the plot, actors, themes, etc. of a particular program... the history [information] might further describe the general theme of the program...and further

describe the salient events which take place in that particular episode" (Present application, as published: U.S Patent Application Publication No. 2004/0019906, paras. 31 and 33). The "Reminder" message of Miller et al. is not history information about a selected episode of a program. Indeed, ...no need, reason, use, suggestion, motivation, or market demand for the Miller system would exist for displaying a "reminder" message about a selected episode which would have been already broadcast, i.e., the episode would have already "come and gone"(pages 9-11). This response is respectfully traversed.

It is noted that the M.P.E.P 2111 states "...reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from reading limitations of the specification into a claim..."

In this case, neither limitation "history information includes a brief description of the plot, actors, themes, etc. of the program..." nor "history information for the episodes of the **program that were previously broadcast**" is recited in the claim. Furthermore, as appellant indicates "history information includes "for example, a brief description of the plot, actors, themes, etc. of a particular program..." thus, those are only example of "history information". The "history information" could includes other information such as channel information, title, time, etc. include in a "reminder" as described in Miller or Knudson reference (see include, but are not limited to, Miller: col. 14, lines 41-col. 15, line 13; Knudson: figure 9-10). In fact, claim 1 recites "...the EPG processor circuit output an on screen display (OSD) signal for displaying the history information about a selected episode of a program;".

Miller discloses if the user response affirmatively (select reminder for a program/episode), the microcontroller stores reminder data consisting of at least the channel, time, and day of the selected program in a reminder buffer, which contains similar schedule information for all programs for which the user has set a reminder. At a pre-determined time before the selected program start time, the microcontroller will retrieve schedule information, including title and service, based on the reminder data, and will instruct the VDG 23 to display a REMINDER overlay message 140 on the television receiver 27 to remind the user that he or she previously set a reminder to watch the selected program... When the user sets multiple reminders, the reminder overlays are stacked, for example, in ascending order according to the time each reminder is scheduled to be display... (see include, but are not limited to, col. 14, line 41-col. 15, line 13). The claimed "history information" is interpreted as "previously set" information/data or data of reminders previously set by the user. Therefore, the limitation "EPG processor circuit outputs an on screen display (OSD) signal for displaying the history information about a selected episode of a program" is interpreted as the microcontroller and VDG outputs an on screen display signal including REMINDER(s) for displaying the reminder information about a selected program/episode previously set by the user.

Claims 1, 3, and 4 are taught, suggested, motivated, or obviated by the cited art as discussed in the final office action mailed on March 6, 2008 and further clarified as discussed above.

B. Whether Claim 5 is unpatentable, under 35 U.S.C § 103 (a), over Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5, 659,366), and in further view of Ozkan et al. (U.S. Patent No. 7,032,236).

For appellant's arguments that correspond to arguments in section A above (pages 13-15), responses to these arguments are similar to responses to arguments in section A above.

In response to Appellant's argument that "Examiner concedes that Miller et al., event in view of Kerman et al. does not disclose the presently claimed limitation "displaying the history information about the selected episode of the program simultaneously with another episode of the program, wherein the selected episode of the program occurs previously to the another episode of the program" (March 6, 2006, Final Office Action, p. 7, Sec. 5)." (page 14, paragraph 2). This argument is respectfully traversed.

In the rejection of claim 5 in the Final Office action, the Examiner nowhere concedes that Miller et al., event in view of Kerman et al. does not disclose the presently claimed limitation "displaying the history information about the selected episode of the program simultaneously with another episode of the program, wherein the selected episode of the program occurs previously to the another episode of the program" because this limitation is not recited in claim 5. The section that appellant pointed to (March 6, 2006, Final Office Action, p. 7, section 5) is for rejection of claims 2, 6-8.

In response to Appellant's arguments against the references individually (i.e., nowhere in Ozkan et al., can show any teaching, suggestion, motivation, or other obviation of presently claimed limitation "displaying history information about the selected episode" is combined with limitation "wherein video signal is a digital signal and the EPG program guide information is in the digital signal's program specific information protocol (PSIP)" be found -page 15, paragraph 2), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Miller in view of Kerman are relied on for teaching of all limitations including displaying history information about the selected episode and video signal is a digital signal (see discussion in the Final rejection and Miller: col. 4, lines 1-6, col. 7, lines 28-30, col. 12, lines 19-22, col. 29, lines 1-18, col. 31, lines 24-34). Ozkan is relied on for the teaching of EPG program information is in the digital signal's PSIP (see include, but are not limited to, col. 3, lines 23-20). It is further noted that Ozkan also discloses digital video signal (see col. 2, lines 43-60, col. 3, lines 16-33). Therefore, the combination of the references discloses, teaches, or suggests, all limitations as claimed in claim 5.

C. Whether Claims 2 and 6-8 are unpatentable, under 35 U.S.C § 103 (a), over Miller et al. (U.S Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5, 659,366), and in further view of Ellis (U.S. Patent Application Publication No. 2003/0149988).

For appellant's arguments that correspond to arguments in section A above (pages 17-19), responses to these arguments are similar to responses to arguments in section A above.

Appellant further argues nowhere in Ellis, via Knudson, can show any teaching, suggestion, motivation, or other obviation of the presently claimed history information about the selected episode simultaneously with another episode be found. Ellis, via Knudson, even teaches against the presented as follows: "before the scheduled broadcast time of each episode of each selected program series, the system sends a reminder message... (page 19). This argument is respectfully traversed.

Again, the claim does not recite the selected episode is previously or already broadcast. Claim 2 recites "...displaying the history information about the selected episode of the program simultaneously with another episode of the program, wherein the selected episode of the program occurs previously to the another episode of the program."

Ellis discloses displaying the history information about the selected episode of the program simultaneously with another episode of the program, wherein the selected episode of the program occurs previously to another episode of the program (interpreted as displaying information of reminders or selected episodes for all episodes in the entire series....wherein the selected episode (for example, episode broadcast on May 3) of the series occurs previously to next episode (for example, episode on May 10, then May 17) – see include, but are not limited to, US 2005/0204388: paragraphs 0015-0017, 0020, 0041, 0046, 0058).

Therefore, the combination of Miller, Kerman, and Ellis, via Knudson teaches or suggests all limitations as claimed in claims 2, 6-8.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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